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dba JCB Leasing & Finance
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9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11
12 MOISES GARCIA GUILLEN,
13 individually and for all those similarly
situated,

14 Plaintiff,

15 v.

16 CORNERSTONE FINANCIAL
SERVICES; DAVID STONE dba
17 CORNERSTONE FINANCIAL
SERVICES; DAVID STONE, an
18 individual; JOHN C. BEERY, JR. dba
JCB LEASING & FINANCE; JOHN C.
19 BEERY, JR., an individual; and DOES 1
THROUGH 10,
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21 Defendants.
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Case No. 2:15-CV-09699-RGK-FFM

**[PROPOSED] ORDER CLARIFYING
ORDER RE: DEFENDANTS'
MOTIONS TO DISMISS (ECF NO.
36)**

Compl. Filed: December 17, 2015

Honorable R. Gary Klausner

REED SMITH LLP
A limited liability partnership formed in the State of Delaware

[PROPOSED] ORDER

Upon the request for Defendants John C. Beery, Jr. and John C. Beery, Jr. dba JCB Leasing & Finance (the “Beery Defendants”) for an order clarifying the Court’s March 2, 2016 Order Re: Defendants’ Motions to Dismiss (ECF No. 36), and with good cause shown, this Court hereby orders as follows:

The Court hereby clarifies that its dismissal of Plaintiff Moises Garcia Guillen’s claim(s) for violation of the Civil Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. section 1961, et seq. (“RICO”)—as set forth in its March 2, 2016 Order [ECF No. 36]—is WITH PREJUDICE. *See McLean v. United States*, 566 F3d 391, 396 (4th Cir. 2009) (“unless otherwise specified, a dismissal for failure to state a claim under Rule 12(b)(6) is presumed to be both a judgment on the merits and to be rendered with prejudice”); *Martin v. Beck*, No. 2:14-CV-2956 KJM KJN, 2015 WL 502946, at *2 (E.D. Cal. Feb. 5, 2015) (citing *McLean* for rule that “generally, ‘a dismissal for failure to state a claim under Rule 12(b)(6) is presumed ... to be rendered with prejudice.’”); *see also Taguinod v. World Sav. Bank, FSB*, 755 F. Supp. 2d 1064, 1068 (C.D. Cal. 2010) (citing *Swaida v. Gentiva Health Servs.*, 238 F.Supp.2d 325, 328 (D.Mass.2002) (“dismissal [is] presumed to be with prejudice unless the order explicitly states otherwise”)).

SO ORDERED:

DATED: March 7, 2016



Honorable R. Gary Klausner
Central District of California